IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 12718 of 2004

Between:

S.Eswar Reddy S/o Narayana Reddy
Telephone Exchage, R.S.Sreeramnagar

Colony, Srikalahasti, Chittoor Dist

..... PETITIONER

AND

1 The Chief General Manager, B.S.N.L.AP., Circle ,

Abids, Hyderabad
2 The General Manager, B.S.N.L. Tirupati, Chittoor District
3 The Divisional Engineer (Maintenance) B.S.N.L.,

Srikalahasti, Chittoor Dist.
4 The Sub-Divisional Engineer Telecom,

Srikalahasti, Chittoor Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus to declare that the petitioner is entitled for the payment of wages on pro-rata basis in the minimum of the revised pay scale applicable to the Group-D Telecom from 1-1-96 onwards and continue the same till the conversion as full time casual labourer by holding that the action of the respondents in paying the salary by

criteria other than the pro-rata wages w.e.f., 1.2.96 and not revising the pro-rata wages in the minimum of the revised pay of a group 'D' w.e.f., 1.1.96 onwards as without jurisdiction **arbitrary**, discriminatory, illegal, and violative of Art.14 and 21 of the constitution of India.

Counsel for the Petitioner: MR.K.MOHAN RAMI REDDY

Counsel for the Respondent Nos.1 to 4: MR.C.YADAGIRI (SC FOR CENTRAL GOVERNMENT)

The Court at the stage of admission made the following:

HONOURABLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO.12718 OF 2004

ORAL ORDER:

The petitioner is working as a Casual Mazdoor in the respondent Corporation. He was appointed as a Casual Mazdoor on 12-07-2001 in pursuance of the order of the Central Administrative Tribunal in O.A.No.583 of 2000 dated 26-04-2000. Since then he has been discharging his duties as a casual labour. He is being engaged for 8 hours a day and the salary is being paid only for 6 hours a day. The petitioner completed more than 240 days in a year. The respondents are paying prorata wages taking the minimum of the basic pay of Group 'D' in the Department from 20-12-1995 till January, 1996. From 01-02-1996, the respondents changed the rate of payment by making the payment at the rate of Rs.37/- per day and again from 04-07-1999 the respondents have *suomoto* revised the criterion by reducing it as Re.1/- per each telegram delivered and continuing the same till this day.

2. The petitioner contends that the Telecommunications Department took a decision on 05-02-1986 to pay the wages on prorata basis by taking the minimum pay scale of group 'D' employees, and the pay scales of Group 'D' employees was revised from 01-01-1996. Therefore, the basis for calculation of prorata wages has got to be revised. The petitioner further submits that as per the circular of the Department of Telecommunications, Government of India, dated 02-08-2000, all the casual labourers engaged on casual basis are to be paid wages worked out on the basis of minimum pay in the pay scale of regularly employed workers in the corresponding cadre without any increment with entitlement of DA and ADA, if any, and that the part time workers will be

paid on prorata basis. The petitioner, by relying on the said circular of the Telecom Department, made a representation to the third respondent on 05-06-2003 for payment of prorata wages with effect from 01-01-1996. Since there is no reply from the third respondent, he sent another representation on 04-04-2004, and no orders have been passed by the third respondent till now.

3. The petitioner therefore approached this Court seeking a direction to the third respondent to pay wages on prorata basis with effect from 01-01-1996. The Telecom Department mentioned in the circular dated 02-08-2000 that they have complied with the directions given by the Central Administrative Tribunal regarding payment of prorata wages for part time labourers.

4. In the light of the circular of the Telecom Department dated 02-08-2000, the third respondent is directed to consider the representation of the petitioner for payment of wages on prorata basis with effect from 01-01-1996 and pass appropriate orders within two months from the date of receipt of a copy of this order, if necessary by obtaining necessary orders from respondents 1 and 2.

5. The Writ Petition is accordingly disposed of. No order as to costs.

Dr. G.YETHIRAJULU, J.

17th August, 2004.

SKM

Note:

Furnish C.C. within 2 days.

B/o.

skm

TO

1 The Chief General Manager, B.S.N.L.AP., Circle ,

Abids, Hyderabad
2 The General Manager, B.S.N.L. Tirupati, Chittoor District
3 The Divisional Engineer (Maintenance) B.S.N.L.,

Srikalahasti, Chittoor Dist.
4 The Sub-Divisional Engineer Telecom,

Srikalahasti, Chittoor Dist.

5 Two C.D.Copies.